

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1610.00
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	August 29, 2000
DATE OF REPORT:	October 11, 2000
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	January 22, 2001

COMPLAINT ISSUES:

Whether the MSD of Wayne Township and the West Central Joint Services violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement an agreed-upon *individualized education program* (the "IEP") as written, specifically, internal and external job training services for student A.

511 IAC 7-17-11 and 7-27-7(a) with regard to the school's alleged failure to implement the *IEPs* of students in the classroom containing students with moderate, severe, profound, and multiple disabilities due to the number of students assigned to the teachers' caseloads.

FINDINGS OF FACT:

1. The Student is 18 years old and is eligible for special education and related services as a student with moderate mental handicaps ("MoMH"). The Student is in a moderate/severe disabilities classroom (the "Classroom") at the local high school (the "School").
2. The Classroom is a double classroom that can be divided by a partition into two classrooms. Two additional instructional classrooms are also available for use by the students in the Classroom in the vocational department; however, the Classroom teachers reported that because of the current Classroom population, and lack of available personnel, those additional classrooms are rarely used. There are two certified teaching positions approved for this program, and they are currently filled. There are five approved paraprofessional positions for this program, with three of the positions currently filled. Candidates for the two open paraprofessional positions have been interviewed and offered jobs, but have declined the positions. One of the paraprofessionals also acts as a job coach for two students (the "Two Students"). This paraprofessional is out of the Classroom working with the Two Students in a community setting two-to-three days per week for approximately two hours each time.
3. At the time the complaint was filed the vocational coordinator at the School (the "Vocational Coordinator") was assigned not only to the School, but had responsibilities for four other high schools. During the course of the investigation, the Vocational Coordinator's responsibilities with the other four high schools have been temporarily suspended until November 1, 2000, in order to provide more assistance to those students in the Classroom who have job training goals and objectives.
4. The Student's *IEP* states that he is to be working on in-school and out-of-school job training skills.

5. In a memorandum dated August 21, 2000, the Principal advised the Director of the following Classroom information. "Please find below, the makeup for special education students assigned to the classrooms of [teacher #1] and [teacher #2] for the 2000/2001 school year. With present staff and student needs, IEP goals of all student **CANNOT** be met. Presently, we have two teachers and three paraprofessionals; 24 students (1 pending)."

6. The following is a breakdown of the Classroom students and their composite needs, as taken from the Principal's memorandum.

multiple handicaps	5	functioning levels	(0-7 months)
severe disabilities	4	functioning levels	(0-3 years)
moderate disabilities	16	functioning levels	(3-13 years)
autistic	3		
communication disorders	6		
visual impairments	1		
wheelchairs	7		
walkers	3		
diapers	5		
incontinence	6		
toilet training goals	6		
tube feeding	2		
eating/feeding goals (require assistance)	8		
non-verbal	8		
IEPs with outside job goals	11		
IEPs with functional goals (math, reading, and spelling)	18		
IEPs with sensory stimulation goals (visual, tactile, auditory)	8		
IEPs with PT/OT goals (staff implementors) (walking, assist with walkers, movement)	4 (1 pending)		
restraint from hitting others (constant one-on-one attention)	3		
restraint from running (constant one-on-one attention)	2		
loud verbal outbursts	4		

7. The Director reported the following recommendations to address the Classroom issues.

- a. Fill the two vacant paraprofessional positions.
- b. Add an additional paraprofessional position (bringing the total to six).
- c. Assign the Vocational Coordinator to the School full-time through November 1, 2000, to organize the vocational program with the cooperative's moderate/severe disabilities program coordinator. The Vocational Coordinator will also supervise the two job coaches so that student IEPs can be implemented.
- d. Convene a meeting by October 15, 2000, of the special education teachers, Vocational Coordinator, department chair, and program coordinator to prepare a report with recommendations for any further program accommodations. The report will then be given to the Principal and to the Director.
- e. Collaboration between the related services personnel and the assistive technology project personnel so that the Classroom teachers can purchase necessary equipment and educational software.

CONCLUSIONS:

1. Findings of Fact #2, #3, #4, #5, #6, and #7 indicate that various personnel have acknowledged that not only the Student's *IEP*, but all of the Classroom students' *IEPs* are unable to be implemented as written because of the number of students in the Classroom, and their respective needs. Violations of 511 IAC 7-27-7(a) and 511 IAC 7-17-11 have occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Although the Director has submitted recommendations to address the Classroom issues, the MSD of Wayne Township and the West Central Joint Services shall:

1. continue efforts to fill the current two vacant paraprofessional positions and add the additional paraprofessional position. Submit weekly documentation of the continuing hiring efforts in the form of advertisements for the positions, and written offers to the applicants. Once the paraprofessional positions have been filled, documentation in the form of the hiring agreements shall be submitted to the Division, but no later than December 18, 2000.
- 2.a. convene the CCC meeting for each of the Classroom students no later than November 10, 2000, and review each student's *IEP* for the purpose of considering functioning levels and needs, and determining the appropriate placement for each student. Consideration shall also be given to providing compensatory services to each student.
- 2.b. submit a plan of action to hire sufficient additional personnel and reconfigure caseloads (based upon each student's CCC placement recommendation) to ensure that all *IEPs* are implemented. New personnel must be hired and in service prior to the beginning of the second semester. The plan of action shall include the placement determinations for each student and the utilization of one of the two additional available classrooms (home living or vocational) as a new classroom. Factor into the reconfiguration of each of the three classrooms the needs of each student and then determine the number of paraprofessionals required for each classroom to meet the needs of each students' *IEP*.

The action plan shall be submitted to the Division no later than November 3, 2000. Copies of the each student's revised *IEP/CCC Summary* shall be submitted to the Division no later than November 20, 2000.

A letter confirming that personnel have been hired and are in service shall be submitted to the Division no later than December 18, 2000.